

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STEPHANIE RICHARD,

Plaintiff,

-against-

Police Officer BERNARD COREY, Shield No. 16079; Sergeant MATTHEW JOHNSON, Shield No. 4922; and JOHN and JANE DOE 1 through 10, individually and in their official capacities (the names John and Jane Doe being fictitious, as the true names are presently unknown),

Defendants.

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**FIRST AMENDED
COMPLAINT**

Jury Trial Demanded

13 CV 9246 (CM)

NATURE OF THE ACTION

1. This is an action to recover money damages arising out of the violation of plaintiff's rights under the Constitution.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth, Fifth, Sixth and Fourteenth Amendments to the Constitution of the United States.

3. The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331 and 1343.

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 (b) and (c).

JURY DEMAND

5. Plaintiff demands a trial by jury in this action.

PARTIES

6. Plaintiff Stephanie Richard (“plaintiff” or “Ms. Richard”) is a resident of Bronx County in the City and State of New York.

7. Defendant Police Officer Bernard Corey, Shield No. 16079 (“Corey”), at all times relevant herein, was an officer, employee and agent of the NYPD. Defendant Corey is sued in his individual and official capacities.

8. Defendant Sergeant Matthew Johnson, Shield No. 4922 (“Johnson”), at all times relevant herein, was an officer, employee and agent of the NYPD. Defendant Johnson is sued in his individual and official capacities.

9. At all times relevant defendants John and Jane Doe 1 through 10 were police officers, detectives or supervisors employed by the NYPD. Plaintiff does not know the real names and shield numbers of defendants John and Jane Doe 1 through 10.

10. At all times relevant herein, defendants John and Jane Doe 1 through 10 were acting as agents, servants and employees of the City of New York and the NYPD. Defendants John and Jane Doe 1 through 10 are sued in their individual and official capacities.

11. At all times relevant herein, all individual defendants were acting under color of state law.

STATEMENT OF FACTS

12. At approximately 10:00 p.m. on August 12, 2013, Ms. Richard was lawfully present in the vicinity of 2815 Grand Concourse in Bronx, New York.

13. Defendants unlawfully detained Ms. Richard and, without reasonable suspicion or probable cause to believe she had committed any crime, detained her and demanded her identification.

14. Ms. Richard complied.

15. Defendants, male officers, struck Ms. Richard, forced her toward their police vehicle and began to search her; in the process they groped her breasts.

16. No contraband was recovered from plaintiff.

17. Without probable cause, defendants then issued plaintiff a ticket for disorderly conduct.

18. Thereafter, Ms. Richard was tightly handcuffed, put inside the police vehicle and falsely arrested.

19. Plaintiff, an asthmatic who takes medication for her condition, began to suffer an asthma attack in the police vehicle. Ms. Richard pleaded for medical attention, but defendants refused and kept driving.

20. Ms. Richard was taken to a police precinct.

21. At the precinct, plaintiff told defendants that she was a Type II Diabetic and required her medication, but defendants refused to obtain treatment for either her asthma or her diabetic condition.

22. Ms. Richard was again searched and her shoes were removed.

23. Throughout her incarceration, Ms. Richard remained barefoot.

24. At the precinct the officers falsely informed employees of the Bronx County District Attorney's Office that they had observed plaintiff commit a crime and prepared false paperwork regarding the circumstances of her arrest.

25. At no point did the officers observe Ms. Richard commit a crime.

26. Ms. Richard was then taken to Bronx Central Booking.

27. Ms. Richard was then released, still without her shoes.

28. On or about October 24, 2013, the ticket against Ms. Richard was dismissed.

29. Ms. Richard suffered damage as a result of defendants' actions. Plaintiff was deprived of her liberty, suffered emotional distress, mental anguish, fear, pain, bodily injury, anxiety, embarrassment, humiliation, an unlawful search and damage to her reputation.

FIRST CLAIM
Unlawful Stop and Search

30. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

31. Defendants violated the Fourth and Fourteenth Amendments because they stopped and searched plaintiff without reasonable suspicion.

32. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages herein before alleged.

SECOND CLAIM
False Arrest

33. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

34. Defendants violated the Fourth and Fourteenth Amendments because they arrested plaintiff without probable cause.

35. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

THIRD CLAIM
Unreasonable Force

36. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

37. The defendants violated the Fourth and Fourteenth Amendments because they used unreasonable force on plaintiff.

38. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

FOURTH CLAIM
Denial Of Constitutional Right To Fair Trial

39. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

40. The individual defendants created false evidence against plaintiff.

41. The individual defendants forwarded false evidence to prosecutors in the Bronx County District Attorney's office.

42. In creating false evidence against plaintiff, and in forwarding false information to prosecutors, the individual defendants violated plaintiff's right to a fair trial under the Due Process Clause of the Fifth, Sixth and Fourteenth Amendments of the United States Constitution.

43. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

FIFTH CLAIM
Deliberate Indifference to Medical Needs

44. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

45. The individual defendants were aware of a risk to plaintiff's safety and a need for medical care and failed to act in deliberate indifference to plaintiff's needs.

46. Accordingly, defendants violated the Fourteenth Amendment because they acted with deliberate indifference to plaintiff's medical needs and safety.

47. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

SIXTH CLAIM
Failure To Intervene

48. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

49. Those defendants that were present but did not actively participate in the aforementioned unlawful conduct observed such conduct, had an opportunity prevent such conduct, had a duty to intervene and prevent such conduct and failed to intervene.

50. Accordingly, the defendants who failed to intervene violated the First, Fourth, Fifth, Sixth and Fourteenth Amendments.

51. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully requests judgment against defendants as follows:

- (a) Compensatory damages against all defendants, jointly and severally;
- (b) Punitive damages against the individual defendants, jointly and severally;
- (c) Reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 1988; and
- (d) Such other and further relief as this Court deems just and proper.

Dated: May 14, 2014
New York, New York

HARVIS WRIGHT & FETT LLP

A handwritten signature in black ink, appearing to read 'Gabriel Harvis', is written over a horizontal line.

Gabriel Harvis
305 Broadway, 14th Floor
New York, New York 10007
(212) 323-6880
gharvis@hwandf.com

Attorneys for plaintiff